

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOSEPH R. KUS,

Plaintiff,

v.

JO ANNE B. BARNHART, Commissioner of
Social Security,

Defendant.

Case No. C05-5735 FDB

ORDER ADOPTING REPORT AND
RECOMMENDATION AFFIRMING
COMMISSIONER'S DECISION


Magistrate Judge J. Kelly Arnold recommends that the Court should conclude that Mr. Kus was properly denied social security benefits because application of the proper legal standard and substantial evidence support the Administrative Law Judge's (ALJ) finding that prior to July 17, 2003, Mr. Kus was not disabled. Plaintiff objects to the Report and Recommendation contending (1) the ALJ failed to give appropriate weight to the opinions of Plaintiff's treating chiropractor, (2) the ALJ failed to properly consider claimant's testimony, (3) the ALJ improperly determined Plaintiff's residual functional capacity, (4) the ALJ failed to meet the burden of proof showing the Plaintiff can perform work in the national economy, (5) Plaintiff is disabled pursuant to Medical-Vocational Rule 201.14, and (6) based on improperly rejected evidence, the Court should exercise its discretion to remand this matter for an award of benefits. After carefully considering Plaintiff's arguments against

1 the analysis and authorities presented by the Magistrate Judge, the Court concludes that the
2 Magistrate Judge did not err.

3 The Court, having reviewed Plaintiff's complaint,, the Report and Recommendation of
4 Magistrate Judge J. Kelly Arnold, Objections thereto, and the remaining record, does hereby find and
5 ORDER:

- 6 (1) The Court adopts the Report and Recommendation;
7 (2) The administrative decision is **AFFIRMED**; and
8 (3) The Clerk is directed to send copies of this Order to Plaintiff's counsel, Defendant's
9 counsel and to the Hon. J. Kelly Arnold..

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11 DATED this 18th day of September, 2006.

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14 FRANKLIN D. BURGESS
15 UNITED STATES DISTRICT JUDGE
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